

VARIANCE OF USE (Approved)

Commissioner Carlson moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. VA-21-003
3475 MULBERRY VARIANCE OF USE RENEWAL

WHEREAS, Mulberry Ridge, LLC did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the A-35 (Agricultural) zone district to allow use for an observatory and related facilities where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on October 7, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. That all exhibits were received into evidence.
5. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That the proposed variance of use conforms to Chapter 5, Use and Dimensional Standards, Section 5.3.4, Variance of Use, of the El Paso County Zoning Resolutions.

7. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County, and

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Planning Commission considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County;
3. The proposed use will be able to meet air, water, odor or noise standards established by County, State or Federal regulations during construction and upon completion of the project;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED that the application of Mulberry Ridge, LLC, for a variance of use within the A-35 (Agricultural) zoning district allow use for an observatory and related facilities for the following described unincorporated area of El Paso County be approved:

AND BE IT FURTHER RESOLVED that the Planning Commission recommends the following condition(s) and notation(s) shall be placed upon this recommendation:

CONDITIONS

1. Approval is limited to the observatory and accessory structures as proposed and discussed in the applicant's letter of intent. Any subsequent addition or modification to

the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.

2. A site development plan shall be applied for and approved within six (6) months of the date of variance of use approval by the Board of County Commissioners. The deadline may be extended by the Planning and Community Development Department Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

NOTATIONS

1. Variance of use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Trowbridge seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Lucia-Treese	aye
Commissioner Bailey	aye
Commissioner Brittain Jack	aye
Commissioner Carlson	aye
Commissioner Trowbridge	aye
Commissioner Moraes	aye
Commissioner Fuller	aye
Commissioner Merriam	aye

The Resolution was adopted by a vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: October 7, 2021



Brian Risley, Chair

EXHIBIT A

Property Description (PER Rec. No. 99112613)

A tract of land in the West ½ of section 26, township 13 South, Range 61 West of the 6th P.M. in El Paso County, Colorado, mor particularly described as follows:

Beginning at the Southwest corner of section 26 at the intersection of Big Springs Road and Mulberry Road; thence North 0°07'44" East along Mulberry Road, 1,751.96 feet;
Thence leaving said road, North 88°30'20" East, 882.18 feet;
Thence South 0°06'27", 1,1751.96 feet to a point on Big Springs road;
Thence South 88°30'21" West, along said road, 882.84 feet to the point of the beginning.